



The State of South Carolina
OFFICE OF THE ATTORNEY GENERAL

HENRY McMASTER
ATTORNEY GENERAL

September 13, 2004

Jeffrey B. Moore, Executive Director
South Carolina Sheriffs' Association
P. O. Box 21428
Columbia, South Carolina 29221-1428

Dear Jeff:

In a letter to this office you referenced the provisions of newly-amended S.C. Code Ann. Section 56-5-5630. Such provision was amended by Act No. 269 of 2004. This statute provides for the sale of abandoned vehicle stating that

When an abandoned vehicle has been taken into custody, the towing company and storage facility having towed and received the vehicle shall notify by registered or certified mail, return receipt requested, the last known registered owner of the vehicle and all lienholders of record that the vehicle has been taken into custody. Notification of the owner and all lienholders by certified or registered mail, return receipt requested, constitutes notification for purposes of this section. This notification must satisfy the notification requirements contained in Section 29-15-10. The notice must:

- (a) give a description of the year, make, model, and identification number of the vehicle;
- (b) set forth the location where the vehicle is being held;
- (c) inform the owner and all lienholders of the right to reclaim the vehicle within thirty days beginning the day after the notice is mailed, return receipt requested, upon payment of all towing, preservation, storage charges, notification, publication, and court costs resulting from placing the vehicle in custody; and
- (d) state that the failure of the owner and all lienholders to exercise their right to reclaim the vehicle within the time provided is considered a waiver by the owner and lienholders of all rights, title, and interest in the vehicle and is considered as their consent to the sale of the vehicle at a public auction.

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As noted, Section 56-5-5630 requires that the "notification must satisfy the notification requirements contained in Section 29-15-10." You have asked whether such provision requires an additional search for the name and address of any owner or lienholder as set forth in Section 29-15-10 before an article is sold for purposes of that provision.

The provisions of Section 56-5-5630 emphasized above, "(t)his notification must satisfy the notification requirements contained in Section 29-15-10" are ambiguous. However, I have been informed by an individual familiar with this legislation that the reference to Section 29-15-10 is meant to provide for the assessment of storage costs as set forth in Section 29-15-10 (B) which provides that

Storage costs may be charged that have accrued before the notification of the owner and lienholder, by certified or registered mail, of the location of the article. Notification to the owner and lienholder by the proprietor, owner, or operator of the towing company, storage facility, garage or repair shop must occur within five days, after receiving the owner's and lienholder's identities. If the notice is not mailed within this period, storage costs after the five-day period must not be charged until the notice is mailed.

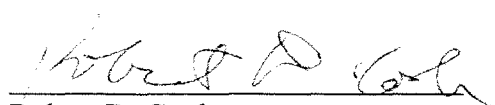
Therefore, in light of such response as to the intended meaning, the provisions requiring a mandatory second search for the owner and lienholder information as provided in Section 29-15-10 are not applicable to a situation arising under Section 56-5-5630. As set forth in Section 56-5-5630, "(n)otification of the owner and all lienholders by certified or registered mail, return receipt requested, constitutes notification for purposes of this section." However, in light of the ambiguity, it would be desirable to seek legislative clarification.

Sincerely,



Charles H. Richardson
Senior Assistant Attorney General

REVIEWED AND APPROVED BY:



Robert D. Cook
Assistant Deputy Attorney General